

MINUTES OF THE REGULAR MEETING OF THE BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS

AUGUST 1, 2007

The **Regular Meeting** of the Council of Commissioners was called to order Wednesday, **August 1, 2007** in the Council Chambers, Third Floor, Room 312, Courthouse Building, 155 West Granite Street, Butte, Montana by Chief Executive Paul Babb.

ROLL CALL

11 Present and 1 absent. Commissioner Granger was excused.

PRAYER

Commissioner Fay led the Commissioners in prayer.

APPROVAL OF THE MINUTES OF THE JULY 18, 2007 REGULAR MEETING

It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a unanimous verbal vote to approve the Minutes of the July 18, 2007 Regular Meeting.

ITEMS NOT ON THE AGENDA – SUSPENSION OF THE RULES

None

PUBLIC COMMENT ON ANY PUBLIC MATTER NOT ON THE AGENDA

None

CHIEF EXECUTIVE’S REPORT

Chief Executive Babb reported to the Council that the Evel Knievel Days were a huge success. He thanked everyone who helped.

He gave an update on the yellow ribbons. Shelly Jones just about has that complete. She’s been working with various vendors and the determination has been to look at fiberglass with Extreme Concepts. She has also been working with the printers around town so instead of having the name stenciled, we would have stickers. He thinks the price will be very reasonable. We plan on having some kind of a media event so we can get that information out to the public.

The League of Cities and Towns annual conference will be in Bozeman at the Grandtree Inn, October 3 through the 5th. It sounds like in 2009 that Butte will have a good shot at landing that conference in Butte.

This Friday is Relay for Life out at Copper Mountain. If you haven't had a chance to go to that before it's quite touching to go out there and see the people that have survived cancer. Please pass the word on that so they have a good turnout.

Our Emergency Service staff have been holding roundtables that include Sheriff Walsh, Jeff Miller and Roger Ebner and they have been briefing me on how things are going with the Pattengail fire. It's a great exercise for our people to be involved in that so that when something happens in our area we will already have discussed different scenarios.

SECTION I

PRESENTATION COMMUNICATION NO. 07-547

Tasha Syverson, Senior Due Diligence Coordinator, requesting time on the 8/1/07 agenda to make a presentation about Home Depot's proposed development. Also requesting approval of a tax abatement.

Tasha Syverson, Senior Due Diligence Coordinator, gave a power point presentation. She explained the cost of nearly \$2 million to bring in fill to the site and other expenses involved in making the site suitable for building. Because of those high costs they are requesting a ten-year tax abatement. They hope to break ground this fall weather permitting. If not it would be next April.

It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a unanimous verbal vote to refer Communication No. 07-457 to the Tax Abatement Review Committee and place Communication No. 07-457 on file.

SECTION II

PRESENTATION COMMUNICATION NO. 07-533

Jeff Amerman, Finance and Budget Director, requesting time on the 8/1/07 agenda to make a presentation on the FY 2007 – 2008 preliminary budget.

Jeff Amerman, Finance and Budget Director, came to the microphone and explained the preliminary budget. There were numerous questions from the commissioners. Mr. Amerman then requested approval of the preliminary budget and schedule a public hearing for 8/15/07.

It was moved by Commissioner O’Leary that the Preliminary Budget be adopted and that a public hearing be scheduled for August 15, 2007 and that Communication No. 07-533 be held in Committee of the Whole. The motion was seconded by Commissioner Lee. The motion passed with a verbal vote of 8 yeas and 4 nays.

SECTION III

PRESENTATION COMMUNICATION NO. 07-526

John M. Moodry, Supervisor Weed Department, requesting time on the 8/1/07 agenda to present a plan for Ordinance No. 196 being transferred from the Public Works Department to the Weed Department.

John Moodry, Supervisor of the Weed Department, came forward and explained that in the past budget they had requested to take over enforcement of Ordinance No. 196. That is the control of undesirable vegetation on private property within the urban area of Butte-Silver Bow. The ordinance has been on the books since 1984 and there has never been an appropriations to the ordinance. This was a duty of the Public Works Department. They have never had the ability nor the funding to enforce the ordinance. We have put this in our budget request for the last two years. He is requesting tonight that this funding be put in the preliminary budget and that Ordinance 196 with some changes be put under control of the Weed Board. John Chebul of the Civic Improvement Committee also came forward to speak in support of this.

It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a unanimous verbal vote to refer Communication No. 07-526 to the Judiciary Committee.

SECTION IV

CONSENT AGENDA

- A.**
 - 1. COMMITTEE OF THE WHOLE MEETING REPORT
 - 2. FINANCE AND BUDGET COMMITTEE MEETING REPORT
 - 3. JUDICIARY COMMITTEE MEETING REPORT
 - 4. RULES COMMITTEE MEETING REPORT

B.

COMMUNICATIONS

Before entertaining a motion on the Consent Agenda, Chief Executive Babb called for any segregations or friendly amendments. Commissioner Coleman segregated Judiciary Committee Meeting Report, Section IX, Council Resolution No. 07-59. Commissioner Shaw asked to segregate Communication No. 07-534 and also make a “friendly amendment” on page 10 of Committee of the Whole Meeting Report, it should read Gary Drynan came forward instead of Robert Hyatt. Commissioner O’Leary as a “friendly amendment” everybody should have

on their desk an amended Committee of the Whole Meeting Report. He also segregated Communication No. 07-409 and Communication No. 07-497 from that report. He made a “friendly amendment” on page 7 of your agenda under Suspension of the Rules the title of that resolution was left off. That is Council Resolution No. 07-63. He segregated Communication No.1 under B No. 07-510. Commissioner Moodry segregated Communication 29, 07-450. Commissioner Mulcahy segregated Item No. 35, No. 07-546.

It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a unanimous verbal vote to approve the Consent Agenda, Section A, Items 1 through 4, Section B, Items 1 through 35 with the exception of those items segregated.

Section A, Communication No. 07-409 Segregation – Commissioner O’Leary moved that Communication No. 07-409 be approved and placed on file. Commissioner Lee seconded the Motion and it carried with a unanimous verbal vote.

Communication No. 07-497 segregation – Commissioner O’Leary moved that Communication No. 07-497 be approved and placed on file. Commissioner Lee seconded the motion and it carried with a unanimous verbal vote

Resolution No. 07-59 – Commissioner Coleman moved to amend Section IX of the Judiciary Committee Meeting Report to adopt the draft of Council Resolution No. 07-59 which is marked with a footer at the bottom of every page 8-1-07 and that will substitute as the resolution in the Committee Report. The motion was seconded the Commissioner Mulcahy and carried with a unanimous verbal vote.

Under Section B, Item No. 1, Communication No. 07-510 – Commissioner O’Leary asked to be excused from voting on this one. One of the properties outlined in this communication belongs to him and his wife.

Commissioner Mulcahy moved to note and place on file. The motion was seconded by Commissioner Coleman and passed with a unanimous verbal vote.

Item No. 23, Communication No. 07-534 – Commissioner Shaw said the reason she segregated this communication. She agrees totally that there is a need in our community for additional housing for the mentally ill. She feels they should have found a building they could have used. There are about six underutilized buildings in this area. **It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried with a roll call vote to concur with the request and request County Attorney to prepare a resolution and hold in Committee of the Whole.**

Item No. 29, Communication No. 07-540 – Commissioner Moodry asked Mr. Connole to report on the Renewable Resource Project. Is it complete? Mr. Connole told the commissioners that the Renewable Resource Project is on the final stages of development right now. The TIFID Board has received updates at their June and July meetings from Lost Dolphin. He and John VanDaveer, Jeff Amerman and the Chief Executive have been meeting with Lost Dolphin and going through those projects. We expect a final report to be presented to the TIFID Board at their August 29th Meeting. Commissioner Moodry asked Mr. Connole if the commissioners could see that report. Mr. Connole said they would provide a full report to the Council when it's completed. **It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a unanimous verbal vote to concur and place Communication No. 07-540 on file.** There was one nay from Commissioner Mulcahy.

Item No. 35, Communication No. 07-546 – Commissioner Mulcahy asked Mr. Connole if what we are doing here is taking advantage of lower interest rates. Mr. Connole answered that is correct. We are taking advantage of lower interest rates and also the first opportunity to refund these bonds which came about July 1, 2007. The savings per year is somewhere between \$140,000 a year and \$178,000 a year. **It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried with a unanimous verbal vote to concur with the request in Communication No. 07-546 and place on file.**

SECTION V

ORDINANCES AND RESOLUTIONS REFERRED TO JUDICIARY

1. COUNCIL RESOLUTION NO. 07-60

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE
PRELIMINARY

PLAT OF THE ELK RIDGE ESTATES MINOR SUBDIVISION OF THE CITY
AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA AND
PROVIDING FOR THE REPEAL OF ALL PARTS OF RESOLUTIONS IN
CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE
HEREIN.

2. COUNCIL RESOLUTION NO. 07-61

A RESOLUTION CONTINUING THE LOCAL VEHICLE TAX FOR FISCAL
YEAR 2007 – 2008 ON VEHICLES SUBJECT TO A REGISTRATION FEE
UNDER SECTIONS 61-3-560 THROUGH 61-3-562, MCA AT A RATE OF
0.5% OF THE VALUE DETERMINED UNDER SECTION 61-3-503, MCA IN
ADDITION TO THE REGISTRATION FEE IMPOSED UNDER SECTIONS
61-3-560 THROUGH 61-3-562, MCA, AS AUTHORIZED BY SECTION 61-3-
537, MCA; DECLARING THAT A PUBLIC HEARING HAS BEEN HELD ON

THE LOCAL VEHICLE TAX AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

3. COUNCIL RESOLUTION NO. 07-62

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE FINAL PLAT OF THE HOME DEPOT MINOR SUBDIVISION OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA; PROVIDING FOR THE REPEAL OF ALL PARTS OF RESOLUTIONS IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

SECTION VI ORDINANCES – SECOND READING

**1. COUNCIL BILL NO. 07-12
ORDINANCE NO. 07-12**

AN ORDINANCE AMENDING BUTTE-SILVER BOW ORDINANCE NO. 344 AND CHAPTER 2.24 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED “LAW ENFORCEMENT COMMISSION”; ADDING A NEW SUBSECTION 2.24.040 (H), B-SB MC; PROVIDING FOR ADDITIONAL COMPENSATION FOR THE CHAIRMAN OF THE LAW ENFORCEMENT COMMISSION AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a roll call vote of 11 yeas, 0 nays and 1 absent to place Council Bill No. 07-12, Ordinance No. 07-12 on second reading and passed having been deemed fully read at length.**

**SECTION VII RESOLUTION AND ORDINANCES –
FINAL READING**

**1. COUNCIL BILL NO. 07-11
ORDINANCE NO. 07-11**

AN ORDINANCE AMENDING BUTTE-SILVER BOW ORDINANCE NO. 195 AND CHAPTER 15.10 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED “FIRE CODE” AND AMENDING SECTIONS 15.10.020, 15.10.030 AND 15.10.060, B-SB MC AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a roll call vote of 11 yeas, 0 nays and 1 absent to place Council Bill No. 07-11, Ordinance No. 07-11 on final reading and passed having been deemed fully read at length.**

2. COUNCIL RESOLUTION NO. 07-57

A RESOLUTION GRANTING CONDITIONAL OF THE PRELIMINARY PLAT OF THE HOME DEPOT MINOR SUBDIVISION OF THE CITY AND

COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA; PROVIDING FOR THE REPEAL OF ALL PART OF RESOLUTIONS IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a roll call vote of 11 yeas, 0 nays and 1 absent to place Council Resolution No. 07-57 on final reading and passed having been deemed fully read at length.**

3. COUNCIL RESOLUTION NO. 07-58

A RESOLUTION DIRECTING THE BUTTE-SILVER BOW TREASURER TO MAIL NOTICE OF PENDING TAX DEED ISSUANCE TO ALL PERSONS CONSIDERED INTERESTED PARTIES FOR EACH PROPERTY FOR WHICH THERE HAS BEEN ISSUED A TAX CERTIFICATE IN ACCORDANCE WITH THE PROVISIONS OF SECTION 15-18-212, MCA; FURTHER DIRECTING THE TREASURER TO ISSUE TAX DEED FOR THOSE PARCELS OF PROPERTY WHERE THERE HAS BEEN ISSUED A TAX CERTIFICATE AND THE EXPIRATION DATE OF THE REDEMPTION PERIOD HAS EXPIRED AND THE REQUIRED PAYMENTS HAVE NOT BEEN MADE AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a roll call vote of 11 yeas, 0 nays and 1 absent to place Council Resolution No. 07-58 on final reading and passed having been deemed fully read at length.**

4. COUNCIL RESOLUTION NO. 07-59

A RESOLUTION DIRECTING THE ELECTION ADMINISTRATOR TO PUT THE QUESTION OF APPROVING A GENERAL OBLIGATION BOND ISSUE NOT TO EXCEED THE AMOUNT OF \$7,500,000.00 FOR THE RENOVATION AND EXPANSION OF THE BUTTE-SILVER BOW PUBLIC ARCHIVES BUILDING ON THE BALLOT FOR VOTER APPROVAL AT A SPECIAL MAIL BALLOT ELECTION TO BE HELD ON WEDNESDAY, NOVEMBER 14, 2007 AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner O’Leary, seconded by Commissioner Lee to place Council Resolution No. 07-59 on final reading and passed having been deemed fully read at length.**

**ORDINANCES AND RESOLUTIONS –
SUSPENSION OF THE RULES**

It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a roll call vote of 11 yeas, 0 nays and 1 absent to suspend the rules for the purpose of passing Council Resolution No. 07-63 by waiving Subsection 7 of Rule XXXVI, of the Rules and Order of Business of the

Council of Commissioners, thereby having it considered for advanced passage without reference to the Judiciary Committee.

1. COUNCIL RESOLUTION NO. 07-63

A RESOLUTION RELATING TO TAXABLE TAX INCREMENT INDUSTRIAL INFRASTRUCTURE DEVELOPMENT REVENUE REFUNDING BONDS, SERIES 2007; AUTHORIZING THE ISSUANCE AND PRIVATE NEGOTIATED SALE THEREOF.

It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a roll call vote of 11 yeas, 0 nays and 1 absent to place Council Resolution No. 07-63 on final passage and passed having been deemed fully read at length.

ADJOURN

CHIEF EXECUTIVE

ATTEST:

CLERK AND RECORDER